

COMMONWEALTH OF VIRGINIA
STATE IMPLEMENTATION PLAN
§ 110(a)(2) REQUIREMENTS
FOR OZONE

A State Implementation Plan (SIP) is a plan for each state that identifies how that state will attain and maintain the primary and secondary National Ambient Air Quality Standards (NAAQS). The SIP contains regulations, source-specific requirements, non-regulatory items such as plans and inventories, and in some cases additional requirements promulgated by the U.S. Environmental Protection Agency (EPA). The initial SIPs for states were approved by on May 31, 1972. SIPs may be revised by the state with EPA approval as necessary. The federally enforceable SIP for Virginia is compiled in 40 CFR Part 52 Subpart VV.

This SIP revision addresses those requirements of § 110(a)(2)(A) through (M) of the federal Clean Air Act which have not been addressed in other SIP revisions. It is a compilation of certain elements that describe how the state will demonstrate how the 8-hour ozone NAAQS are being implemented, maintained and enforced. This SIP revision, once approved by EPA, will provide a federally enforceable confirmation of how the state will continue to comply with the requirements of § 110(a)(2).

Legislative authority for Virginia's air quality program is codified in the Air Pollution Control Law of Virginia (Title 10.1 Chapter 13 of the Code of Virginia), which gives the State Air Pollution Control Board and the Department of Environmental Quality the authority to implement the federal Clean Air Act in Virginia.

The regulatory authority to implement Clean Air programs is found in the Virginia Administrative Code (VAC), specifically 9 VAC 5 for regulations adopted by the State Air Pollution Control Board. These regulations are approved into the Virginia SIP and cited in 40 CFR 52.2420(c) unless otherwise stated.

Those requirements of § 110(a)(2) that are already in the approved SIP or recently submitted SIP revisions relate to enforceable emission limits and schedules for compliance; monitoring, source testing and emissions reporting; recordkeeping and reporting requirements; and permit fees. Some requirements, such as those for intergovernmental consultation, air quality modeling and compliance with Part D of the federal Clean Air Act, are fulfilled during the development and submission to EPA as a SIP revision of attainment plans and related requirements due under Subpart 1 and, in the case of ozone, Subpart 2 of the federal Clean Air Act. In the case of ozone, Virginia has submitted the ozone attainment demonstration for the Northern Virginia Ozone Nonattainment Area, and has submitted redesignation requests and maintenance plan SIP revisions for all other ozone nonattainment areas in the state.

§ 110(a) element	Summary of element	Virginia's response
§ 110(a)(2)(B)	Provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to monitor, compile, and analyze data on ambient air quality, and upon request, make such data available to the Administrator.	<p>Virginia maintains and operates a multi-station ozone network to measure ambient ozone levels within the state for comparison to NAAQS. Seasonal (April – October) ozone monitoring is currently performed at the following areas: Roanoke, Richmond, Hampton Roads, Winchester, Fredericksburg, Northern Virginia, and the counties of Wythe, Rockbridge, Page, Fauquier, and Caroline. Additionally, year-round ozone monitoring is performed at Fairfax County and Shenandoah National Park by the county and the National Park Service, respectively. All data is measured using U.S. EPA approved methods as either Reference or Equivalent monitors, all monitors are subjected to the quality assurance requirements of 40 CFR Part 58, Appendix A, and that all samplers are located at sites that have met the minimum siting requirements of Part 58, Appendix E. The data is submitted to EPA's Air Quality System (AQS) system, in a timely manner in accordance to the schedule prescribed by 40 CFR Part 58.</p> <p>In order to keep EPA informed of changes to the sampling network Virginia provides EPA Region III with prior notification of any planned changes to the network. As needed, details of these changes and anticipated approvals of the changes are communicated to EPA. On an annual basis, Virginia sends EPA a summary of all the changes to the network. This summary also provides a description of each change, the reason for each change, and any other information relevant to the change. Virginia submits data to the AQS system, in a timely manner, pursuant to the scheduled prescribed by the EPA in 40 CFR Part 58.</p> <p>Virginia analyzes the data to determine attainment status of areas and analyzed trends as evinced by the June 12, 2007 attainment demonstration SIP revision submittal for the Northern Virginia area.</p> <p>Virginia analyzes the data to determine attainment status of areas and analyzed trends as evinced by the redesignation requests and maintenance plans submitted and approved to date. These redesignation requests and maintenance plans include those for the Richmond area (submitted</p>

		September 18, 20, and 25) and the Hampton Roads area (submitted October 12, 16, and 18, 2007).
§ 110(a)(2)(E)(i)	<p>Provide:</p> <p>(i) necessary assurances that the state (or, except where the Administrator deems inappropriate, the general purpose local government or governments, or a regional agency designated by the state or general purpose local governments for such purpose) will have adequate personnel, funding, and authority under state (and, as appropriate, local) law to carry out such implementation plan (and is not prohibited by any provision of federal or state law from carrying out such implementation plan or portion thereof).</p>	<p>The Code of Virginia Title 10.1 Chapter 13, "Air Pollution Control Board" gives broad authority to develop, implement and enforces the implementation plan.</p> <p>§ 10.1-1308 provides the board adequate legal authority to adopt emission standards and compliance schedules applicable to regulated entities, and to adopt emission standards and limitations and any other measures necessary for attainment and maintenance of national standards.</p> <p>§§ 10.1-1307, 10.1-1307.3, 10.1-1309, 10.1-1316, 10.1-1320, and 10.1-1322 provide the board adequate legal authority to enforce applicable laws, regulations, standards, and compliance schedules, and seek injunctive relief. In addition, § 10.1-1186(10) provides the department legal authority to enforce applicable laws, regulations, standards, and compliance schedules.</p> <p>The resources to carry out the implementation plan are provided through General Funds, Title V funds, and the §§ 103 and 105 grant process. Title V fees are collected under the authority of § 10.1-1322.</p> <p>Virginia has adequate personnel to carry out the SIP with respect to 8-hour ozone requirements. Should EPA determine that Virginia lacks adequate personnel to carry out the SIP, EPA may issue a finding with respect to that deficiency, which Virginia would have a legal obligation to correct.</p> <p>DEQ does not anticipate the need for additional resources to carryout the plan for the 8-hr. standard beyond those which have been utilized to date to meet the 1-hour standard, preparation of the plans submitted to date and other current programmatic demands.</p>
§ 110(a)(2)(E)(ii)	(ii) Requirements that the state comply with the requirements respecting state boards under § 128, and	The board has the authority to approve regulations, enforcement actions, and permits. § 10.1-1302 provides that a majority of members appointed to the board represent the public interest and not derive any significant portion of their income from persons subject to the board's permits or enforcement orders.
§ 110(a)(2)(E)(iii)	(iii) Necessary assurances that, where the state has	As discussed above, Fairfax County maintains an ozone monitor in the Northern

	relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the state has responsibility for ensuring adequate implementation of such plan provision.	<p>Virginia area. Virginia does not rely on any other localities to implement any monitoring or plan provisions.</p> <p>As discussed in greater detail in the item related to § 110(a)(2)(B) above, Virginia ensures an adequate network for monitoring ambient ozone levels in the Commonwealth.</p>
§ 110(a)(2)(G)	Provide for authority comparable to that in § 303 and adequate contingency plans to implement such authority.	<p>Upon a finding that any owner is unreasonably affecting the public health, safety or welfare, or the health of animal or plant life, or property, the Code of Virginia Title 10.1, Chapter 13, "Air Pollution Control Board," specifically, §10.1-1309 B authorizes the Board to, after a reasonable attempt to give notice, declare a state of emergency and issue without hearing an emergency special order directing the owner to cease such pollution immediately.</p> <p>§10.1-1309.1 authorizes the Board to issue special orders requiring plans to abate, control, prevent, remove, or contain any substantial and imminent threat to public health or the environment that is reasonably likely to occur if such source ceases operations.</p> <p>(Virginia's emergency plans are found in 9 VAC 5 Chapter 70.)</p>
§ 110(a)(2)(H)	<p>Provide for revision of such plan:</p> <p>(i) from time to time as may be necessary to take account of revisions of such national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of attaining such standard, and</p> <p>(iii) except as provided in paragraph (3)(C), whenever the Administrator finds on the basis of information available to the Administrator that the plan is substantially inadequate to attain the national ambient air quality standard which it implements, or to otherwise comply with any additional requirements established under this Act.</p>	<p>Virginia's SIP is a compilation of regulations, plans, and submittals such as inventories that act to improve and maintain air quality to the national standards. The authority to develop or revise the SIP is based on the authority to adopt new regulations, revise existing regulations, and conduct business in a manner to meet the NAAQS. The Code of Virginia Title 10.1 Chapter 13, "Air Pollution Control Board" gives broad authority to perform these functions. Specifically §10.1-1306 "Inspections, Investigations, etc" provides authority for the Board to act reasonably to achieve and maintain levels of air quality that will protect human health, welfare, and safety. Also, §10.1-1307 "Further powers and duties of Board" provides for the development of a comprehensive program for the study, abatement, and control of all sources of air pollution in the Commonwealth. §10.1-1308 "Regulations" provides authority to promulgate regulations to abate, control, and prohibit air pollution throughout the Commonwealth in accordance with the provisions of Virginia's Administrative Process Act. Nothing in Virginia's statutory or regulatory authority</p>

		prohibits the Commonwealth from revising the SIP in the event of a revision to the NAAQS.
§ 110(a)(2)(J)	Meet the applicable requirements of § 121.	<p>During attainment and maintenance plan development, local planning organizations (LPOs) are organized as the forum for consultation and cooperative air quality planning decisionmaking. LPOs are the organizations certified by the state as being responsible for the preparation of control strategy implementation plan revisions for nonattainment areas under §174 of the Clean Air Act. The organizations include elected officials of local governments in the affected nonattainment area, and representatives of DEQ, VDOT, the MPOs for the affected area, and other agencies and organizations that have responsibilities for developing, submitting or implementing any of the plan revisions. All LPO documentation is submitted with each plan for the pertinent jurisdiction. Virginia's plan submittals specify the organizations responsible for implementing and enforcing the plans.</p> <p>Consultation for transportation conformity purposes is governed by 9 VAC 5 Chapter 151 "Regulation for Transportation Conformity" which was submitted as a SIP revision on May 7, 2007.</p> <p>All SIP revisions undergo public notice and hearing, which provides for comment by the public which includes local political subdivisions.</p> <p>Further, the Commonwealth's Administrative Process Act under the Code of Virginia Title 2.2 "Administration of Government" Chapter 40 "Administrative Process Act" requires that all regulations be provided for a variety of public comment opportunities.</p> <p>Therefore, as demonstrated above, the Commonwealth's public participation requirements and procedures fulfill the requirements of the § 121 consultation process.</p>
§ 110(a)(2)(J)	Meet the applicable requirements of § 127.	Air quality data from Virginia's monitoring network is published in real time on the VDEQ website as are forecasts indicating predicted air quality. Additionally, as part of the 105 grant process Virginia is required to submit monitoring data to the Air Quality System (AQS) in a timely manner. Virginia publishes annually a summary of all monitoring data on the VDEQ website,

		including monitoring locations, exceedances, and violations of standards. VDOT and the MPOs use electronic signs in the nonattainment and maintenance areas to alert motorists to predicted air quality values so that mitigating episodic measures can be implemented.
§ 110(a)(2)(J)	Meet the applicable requirements of Part C.	<p>9 VAC 5 Chapter 80 "Permits for Stationary Sources" Part II "Permit Procedures" Article 8 "Permits for Major Stationary Sources and Modifications - PSD Areas" includes procedures for protection of visibility in Class I areas.</p> <p>The Commonwealth intends to submit its Regional Haze SIP on December 17, 2007. This submittal will provide further visibility protection and improvements to federal Class I areas.</p>
§ 110(a)(2)(M)	Provide for consultation and participation by local political subdivisions affected by the plan.	<p>On June 12, 2007, Virginia submitted a SIP revision pertaining to the base year inventory, RFP plan, and attainment demonstration for the Washington DC-MD-VA ozone nonattainment area which was developed by the regional planning organization, Metropolitan Washington Air Quality Committee (MWAQC). MWAQC is the LPO certified by the governors of Maryland and Virginia and the mayor of DC under § 174 of the Clean Air Act and includes representatives of local governments.</p> <p>During attainment and maintenance plan development, local planning organizations (LPOs) are organized as the forum for consultation and cooperative air quality planning decisionmaking. All LPO documentation is submitted with each plan for the pertinent jurisdiction.</p> <p>Consultation in matters of transportation planning for conformity purposes is required under 9 VAC 5 Chapter 151 "Regulation for Transportation Conformity."</p> <p>All SIP revisions undergo public notice and hearing, which provides for comment by the public which includes local political subdivisions.</p> <p>Additionally, the Code of Virginia under §10.1-1307A. requires advising, consulting, and cooperating with all agencies of the Commonwealth, political subdivisions, private industries, and any other affected groups when developing programs to improve or maintain air quality.</p>

		<p>Further, the Commonwealth's Administrative Process Act under the Code of Virginia Title 2.2 "Administration of Government" Chapter 40 "Administrative Process Act" requires that all regulations be provided for a variety of public comment opportunities.</p> <p>Therefore, as demonstrated above, the Commonwealth's public participation requirements and procedures fulfill the requirements for consultation with local political subdivisions affected by the SIP.</p>
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